

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

NO.2:23-cv-00564

HENRY BROWN,

Plaintiff,

v.

NORFOLK SOUTHERN RAILWAY
COMPANY and NATIONAL RAILROAD
PASSENGER CORPORATION d/b/a
AMTRAK,

Defendants.

NOTICE OF REMOVAL

TO: Judges in the United States District Court
Eastern District of Virginia

Defendants National Railroad Passenger Corp. (“Amtrak”) and Norfolk Southern Railway Company (Norfolk Southern) hereby file this Notice of Removal and show the Court as follows:

1. On October 13, 2023, plaintiff commenced a personal injury action in the Circuit Court for the City of Chesapeake, entitled Henry Brown v. Norfolk Southern Railway Company and National Railroad Passenger Corporation, d/b/a Amtrak, (CL23006376-00). That Complaint alleged that plaintiff Henry Brown suffered personal injuries when the vehicle he was driving was struck by an Amtrak train in Chesapeake, Virginia, on railroad tracks owned and operated by Norfolk Southern. A copy of the Complaint in that action is attached hereto as Exhibit A.

2. Defendant Norfolk Southern accepted service of the Complaint on October 20, 2023. Defendant Amtrak accepted service of the Complaint on October 24, 2023. This Notice of Removal was filed within 30 days of the service of Plaintiff's Complaint on either party.

3. At the time of the commencement of this action in state court and at the time of the filing of this Notice of Removal, Amtrak was and is a corporation created by an Act of Congress, 45 U.S.C. §§ 501 et seq., now codified at 49 U.S.C. §§ 24101 et seq., of which the federal government owns more than half the capital stock. See Affidavit of William Herrmann, attached hereto as Exhibit B.

4. This Court has original federal jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1349, and this action may be removed to this court by Amtrak pursuant to 28 U.S.C. §§ 1441 and 1446. Pursuant to 28 U.S.C. § 1367(a), this Court also has supplemental jurisdiction over all state law claims in this action.

5. All defendants in this action consent to and join this Notice of Removal.

6. Defendants have served notice of this removal on the plaintiff and the Clerk of the Circuit Court for the City of Chesapeake, Virginia, a copy of which is attached hereto as Exhibit C.

WHEREFORE, defendants pray that the action now pending against them in the Circuit Court for the City of Chesapeake, State of Virginia in Chesapeake County, be removed to this Court.

Respectfully submitted this the 9th day of November, 2023.

MILLBERG GORDON STEWART PLLC

By: /s/ William W. Stewart, Jr.
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Passenger Corporation and Norfolk Southern
Railway Company*

CERTIFICATE OF SERVICE

It is hereby certified that on this date the foregoing Notice of Removal was duly filed with the Clerk of Court using the CM/ECF system which will send notification of such filing upon all parties of record.

This the 9th day of November, 2023.

/s/ William W. Stewart, Jr.
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